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1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 41.110. Sample of cigarettes

5 RELATES TO: KRS 138.135, 138.140, 138.155

6 STATUTORY AUTHORITY: KRS 131.130 ~~(4)~~, 138.155

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130 (1) authorizes the Department

8 of Revenue to promulgate administrative regulations for the administration and enforcement of

9 Kentucky tax laws. This administrative regulation, under authority of KRS 138.155, describes the

10 procedure for payment of tax on sample cigarettes on a reporting basis in lieu of affixing cigarette tax

11 evidence to individual packages.

12 Section 1. In lieu of the affixture of stamps, tax on cigarettes packaged and distributed by

13 manufacturers as a complimentary gift to consumers shall be paid on a monthly reporting basis. The

14 report and tax remittance shall~~[must]~~ be submitted to the Department of Revenue, Frankfort,

15 Kentucky, by the manufacturer on or before the 20th of the month following the month in which the

16 cigarettes are shipped from the factory. The report shall~~[must]~~ set forth the number of cigarettes

17 distributed and the method by which these cigarettes were distributed to consumers.

18 Section 2. All packages tax-paid by the manufacturer on a monthly reporting system shall~~[must]~~

19 bear an inscription beneath the cellophane wrapper indicating that the cigarettes contained therein are

20 "not for sale."

21 Section 3. The records of the manufacturer relative to the distribution of sample cigarettes

- 1 shall~~[must]~~ be retained for a period of four (4)~~[two (2)]~~ years and subject to audit by agents of the
- 2 department.

103 KAR 41:110

APPROVED BY AGENCY:

*Daniel Bork*  
DANIEL P. BORK, COMMISSIONER  
Department of Revenue  
Finance and Administration Cabinet

*Oct 10, 2019*  
Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on December 27, 2019, at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), [Lisa.Swiger@ky.gov](mailto:Lisa.Swiger@ky.gov) (email).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 41:110

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative amendment regulation updates the regulation to conform to statutory language of KRS 138.135 requiring records to be kept for four (4) years instead of two (2). Updates the "RELATES TO" statutory references.

(b) The necessity of this administrative regulation: The amendment is necessary to update 103 KAR 41:110 to conform to recent statutory changes in KRS 138.135.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 13A, KRS 131.130, KRS 131.131 and KRS 138.135.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language that conflicts with the current KRS 138.135 statute. This will provide clarity to the license holders.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change this existing administrative regulation by updating the language to conform with the current KRS 138.135 statute per KRS 13A requirements.

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Tobacco manufacturers who provide sample cigarettes to consumers.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are expected, but minimal, if any.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amended regulation will allow for more clarity to the taxpayers allowing for better compliance.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 41:110

Contact Person: Lisa Swiger  
Phone Number: (502) 564-9526  
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A, KRS 131.130, KRS 131.131 and KRS 138.135.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenues are expected to be generated by the provisions of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect. Any costs will be incurred as normal operating expenditures of the Department of Revenue.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: